IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2007

CORAM :

THE HONOURABLE MR.JUSTICE P.JYOTHIMANI

W.P.NO.42962 OF 2006
and
M.P.Nos.1 and 2 of 2006

N. Sathasivam ... Petitioner

Vs.

1. Joint Commissioner of Police
North Zone, Perambur
Chennai - 600 011.

2. The Inspector of Police (Crime)
P-6, Kodungaiyur Police Station
Chennai - 600 118.

3. Selva Kumar
Inspector of Police (Law and Order)
P 6, Kodungaiyur Police Station
Chennai - 600 118. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issue of writ of Certiorari calling for the records relating to the order bearing Ref.No.25098/P.R.N (2)/2006 dated 21.9.2006 issued by the first respondent and quash the same.

For Petitioner : Mr. N.G.R. Prasad
for M/s. Row and Reddy

For Respondents : Mr. D. Srinivasan
Government Advocate

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O R D E R

This writ petition is directed against the impugned order of suspension passed against the petitioner by the first respondent dated 21.9.2006. The petitioner, who joined the Tamil Nadu Police Force in the year 1978, got promoted as a Police Constable Grade-1 on 1.1.1994 and subsequently as Head Constable on 7.8.2000 with effect from 1.12.1999 and he is due for next promotion of Sub-Inspector of Police. In fact, he has filed a writ petition in W.P.No.37016 of 2005 for a direction to

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consider him for promotion as Sub-Inspector of Police. There is some civil dispute pending in respect of his property situated at T.H. Road, Kannadasan Nagar within the jurisdiction of P6, Kodungaiyur Police Station, wherein he was working. According to him, his neighbour one Ramasamy has demolished his compound wall in collusion with the earlier Inspector of Police in the police station, wherein the petitioner is now working as Head Constable. One Kumar, who was arrayed by the petitioner in the suit as a party, has given a complaint in respect of demolition and presently the third respondent is the Inspector of Police, who did not take any action. According to the petitioner, he has preferred a complaint to the Assistant Commissioner of Police on 7.4.2006 against the third respondent and he has also preferred a private complaint against the said Ramasamy and the third respondent in the First Metropolitan Magistrate Court, Egmore, Chennai, seeking police protection. In those circumstances, when the petitioner was on medical leave, to wreak vengeance, the third respondent has given evidence against the petitioner in the First Metropolitan Magistrate Court, Egmore, to the effect that one kerosene seller namely, R.Kumar has given a statement that the petitioner has demanded a mamool of Rs.2,000/- and therefore, the third respondent has got extracted a false statement against the petitioner. In was in those circumstances, the petitioner has got an order of anticipatory bail from this Court on 26.10.2006 in Crl.O.P.No.26205 of 2006. Now, at the instance of the third respondent, the order of suspension against the petitioner came to be passed on 21.9.2006. The order of suspension is challenged mainly on the ground of mala fide and it is stated to be at the instance of the third respondent, who is the Inspector of Police (Law & Order), P-6 Kodungaiyur Police Station, wherein the petitioner is working. According to the petitioner, the order of suspension is not issued in public interest and it is in respect of a civil dispute and solely due to the vengeance developed by the third respondent against the petitioner.

2. On the other hand, the second respondent has filed a counter affidavit. According to the second respondent, the petitioner worked as Inspector's Jeep driver. He was placed under suspension in connection with a case in P6, Kodungaiyur Police Station, in Crime No.1119/2006 under Sections 199, 200, 201, 213, 384 & 506(i) IPC and the suspension order was affixed on the petitioner's quarters. It is also the case of the second respondent that on 16.9.2006 at about 20.00 hours, one Kumar, who is the kerosene vendor, lodged a complaint to one Rajendran, Inspector of Police, Law and Order and stated that the petitioner being the Inspector's driver has threatened him for getting the mamool of Rs.2,000/- and it was in that regard, the said Crime No.1119/2006 was registered. It is also the case of the second respondent that in respect of another case also, a case was registered in P6 Kodungaiyur Police Station in Crime No.342/2004 under Sections 147, 148, 452, 341, 427, 323 and 506(ii) IPC. That case was on the basis of the complaint given by the wife of an Inspector of Police Selvakumar and by the conduct of the petitioner, he brought bad name to

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the department. Therefore, according to the second respondent, the impugned order of suspension is passed on public interest.

3. Even though it is vehemently contended by Mr.N.G.R.Prasad, learned counsel appearing for the petitioner that in respect of the civil matter, the present order of suspension is passed only at the sole interference of the third respondent, a reference to the counter affidavit shows that the present Crime No.1119/2006 is not the only case, but the petitioner is involved in one more case in Crime No.342/2004, which is also pending. Merely because, this Court has granted anticipatory bail to the petitioner, it does not mean that the department under which the petitioner is working has no right or jurisdiction to suspend him, if it is found that the public interest requires suspension. The argument of the learned counsel that the authority cannot suspend him is not sustainable. Even though it is true that no charge is yet framed against the petitioner, it is for the first respondent to frame the charge. After expiry of six months from the date of suspension, it is always open to the petitioner to make a representation for the purpose of review of order of suspension.

4. The writ petition stands dismissed. Consequently, connected miscellaneous petitions are also dismissed. No costs.

kb

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1. Joint Commissioner of Police
   North Zone, Perambur
   Chennai - 600 011.

2. The Inspector of Police (Crime)
   P-6, Kodungaiyur Police Station
   Chennai - 600 118.

1 CC TO M/S ROW & REDDY, SR 9908

order in
W.P.No.42962 of 2006

GK(CO)

BP/26.2

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